

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No.: EB-10-LA-0142
Able Cine Tech)	
)	Citation No.: C201132900002
Burbank, California)	
)	
)	

CITATION

ILLEGAL MARKETING OF UNCERTIFICATED RADIO FREQUENCY DEVICES

Adopted: November 16, 2010

Released: November 18, 2010

By the District Director, Los Angeles District Office, Western Region, Enforcement Bureau:

I. INTRODUCTION

1. This is an official **CITATION** issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (“Act”),¹ to Able Cine Tech for marketing unauthorized radio frequency devices in the United States in violation of Section 302(b) of the Act,² and Section 2.803(a)(1) of the Commission’s Rules (“Rules”).³

2. Able Cine Tech should take immediate steps to come into compliance and to avoid any recurrence of this misconduct. As explained below and as provided in the Communications Act, future violations of the Commission’s Rules in this regard may subject your company to substantial monetary penalties, seizure of equipment, and criminal sanctions.

II. BACKGROUND

3. On June 3, 2010, the Enforcement Bureau’s Los Angeles Office investigated Able Cine Tech, located at 801 S. Main St., Burbank, California. The investigation revealed that Able Cine Tech marketed unauthorized radio frequency devices, specifically a Modulus UHF wireless video assist device. A review of the Commission’s equipment authorization databases released that these Modulus wireless video assist transmitters have not been certificated for marketing or use in the United States.

¹ 47 U.S.C. § 503(b)(5).

² 47 U.S.C. § 302a(b).

³ 47 C.F.R. § 2.803(a)(1).

III. APPLICABLE LAW AND VIOLATIONS

4. Federal law requires that radio frequency devices be certified in accordance with the FCC's technical standards before they can be marketed in the United States. Section 302(b) of the Act provides that "[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section."⁴ Section 2.803(a)(1) of the Commission's implementing regulations provides that "no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless: [i]n the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled..."⁵ Section 2.803(g) of the Commission's Rules provides in pertinent part that "radio frequency devices that could not be authorized or legally operated under the current rules...shall not be operated, advertised, displayed, offered for sale or lease, sold or leased, or otherwise marketed absent a license issued under part 5 of this chapter or a special temporary authorization issued by the Commission."⁶ Section 2.803(e)(4) of the Commission's Rules defines "marketing" as the "sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment or distribution for the purpose of selling or leasing or offering for sale or lease."⁷

5. Wireless video assist devices are authorized for use pursuant to Part 74, Subpart H of the Commission's Rules.⁸ According to Section 74.801 of the Rules, "[t]elevision broadcast auxiliary licensees and motion picture and television producers⁹ . . . may operate wireless video assist devices on a noninterference basis on VHF and UHF television channels to assist with production activities."¹⁰ All transmitters marketed for use under Part 74, Subpart H, "shall be certificated by the Federal Communications Commission for this purpose."¹¹ On June 3, 2010, an investigation by the Los Angeles Office of Able Cine Tech's store in Burbank, California, revealed that Able Cine Tech marketed wireless video assist devices that had not been certificated for marketing or use in the United States. The marketing of these devices violated Section 302(b) of the Act,¹² and Section 2.803(a)(1) of the Rules.¹³

⁴ 47 U.S.C. § 302a(b).

⁵ 47 C.F.R. § 2.803(a)(1).

⁶ 47 C.F.R. § 2.803(g).

⁷ 47 C.F.R. § 2.803(e)(4).

⁸ 47 C.F.R §§ 74.801 - 74.882.

⁹ Pursuant to Section 74.801 of the Rules, a "[m]otion picture producer refers to a person or organization engaged in the production or filming of motion pictures." A "[t]elevision program producer refers to a person or organization engaged in the production of television programs." 47 C.F.R § 74.801

¹⁰ 47 C.F.R § 74.870.

¹¹ 47 C.F.R § 74.851(f). *See* Part 2, Subpart I of the Rules, 47 C.F.R §§ 2.801 – 2.815.

¹² 47 U.S.C. § 302a(b).

¹³ 47 C.F.R. § 2.803(a)(1).

IV. REQUEST FOR INFORMATION

6. Pursuant to Sections 4(i), 4(j), and 403 of the Act,¹⁴ Able Cine Tech is directed to provide the information specified herein, within thirty (30) days after the release date of this Citation.

- a. Provide name and address of the source, i.e. manufacturer, distributor and/or importer from whom Able Cine Tech acquired the wireless video assist devices referenced above.

V. FUTURE COMPLIANCE

7. If, after receipt of this Citation, Able Cine Tech violates the Communications Act or the Commission's Rules by engaging in conduct of the type described herein, the Commission may impose monetary forfeitures of up to \$16,000 for each such violation or each day of a continuing violation and up to \$112,500 for any single act or failure to act.¹⁵ In addition, violations of the Act or the Rules can result in seizure of equipment through *in rem* forfeiture actions, as well as criminal sanctions, including imprisonment.¹⁶

8. Able Cine Tech may respond to this Citation within thirty (30) days after the release date of this Citation either through (1) a personal interview at the closest FCC office, or (2) a written statement. Any written statements should specify what actions have been taken by Able Cine Tech to ensure that it does not violate the Commission's rules governing the marketing of radio frequency devices in the future. All responses should be addressed to Federal Communications Commission, Los Angeles District Office, 18000 Studebaker Rd., #660, Cerritos, CA 90703. Please reference file number EB-10-LA-0142 when corresponding with the Commission.

9. Under the Privacy Act of 1974, any statement or information provided by you may be used by the Commission to determine if further enforcement action is required.¹⁷ Any knowingly or willfully false statement, or concealment of any material fact, made in reply to this Citation is punishable by fine or imprisonment.¹⁸ Please also note that Section 1.17 of the Rules requires that you provide truthful and accurate statements to the Commission.¹⁹

VI. CONTACT INFORMATION

10. The closest FCC Office is the Los Angeles District Office in Cerritos, CA. You may contact this office by telephone, 562-860-7474, to schedule a personal interview, which must take place within thirty (30) days after the release date of this Citation.

¹⁴ 47 U.S.C. §§ 154(i), 154(j), 403.

¹⁵ See 47 U.S.C. § 401, 501, 503; 47 C.F.R. § 1.80(b)(3). This amount is subject to further adjustment for inflation (see *id.* § 1.80(b)(5)), and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation.

¹⁶ See 47 U.S.C. § 510.

¹⁷ See Privacy Act of 1974, 5 U.S.C. § 552a(e)(3).

¹⁸ See 18 U.S.C. § 1001 *et seq.*

¹⁹ 47 C.F.R. § 1.17 (“... no person subject to this rule shall; (1) In any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading; and (2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.”)

11. Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need including as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least five (5) days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:
202-418-0530 (voice), 202-418-0432 (tty);

For accessible format materials (braille, large print, electronic files, and audio format):
202-418-0531 (voice), 202-418-7365 (tty).

VII. ORDERING CLAUSES

12. **IT IS ORDERED** that a copy of this Citation shall be sent both by First Class U.S. Mail and Certified Mail, Return Receipt Requested, to Able Cine Tech at its address of record.

FEDERAL COMMUNICATIONS COMMISSION

Nader Haghighat
District Director
Los Angeles District Office
Western Region
Enforcement Bureau